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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,954	02/04/2002	David Frederick Lewin	24895B	6057
22889	7590	01/10/2006		
OWENS CORNING 2790 COLUMBUS ROAD GRANVILLE, OH 43023			EXAMINER PICKETT, JOHN G	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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# Office Action Summary

Application No.

10/066,954

Applicant(s)

LEWIN ET AL.

Examiner

Gregory Pickett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 15-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 15-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. Claims 15-18 are pending in the application. Claims 1-14 have been canceled.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 15-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 15, it is unclear as to whether the density range is with respect to the actual, physical properties of the glass strand, or the tightness of glass strand disposed within the container. The applicant's specification at page 8, line 15 appears to relate the density to the amount of texturized strand within the container; accordingly, in order to examine the claim on its merits, it is this particular density that is presumed of the claim limitation.

Claims 16-18 are dependent on claim 15 and are rejected for the above reason.

***Claim Rejections - 35 USC § 103***

4. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ingemansson et al (US 4,569,471; hereinafter Ingemansson).

Inasmuch as the examiner can determine the scope of the claim, Ingemansson discloses glass strands fed into a muffler outer cylinder **14**. The muffler outer cylinder is considered a container. As the strands are fed, they are blown with a nozzle **9**, causing the threads to blow apart so as to form a wool-like texture (Col. 3, lines 40-44). Accordingly, the filled strand is considered texturized. After the glass strands have been deposited into the outer cylinder, a cover plate is placed over the opening for transport (see Col. 3, line 67 to Col. 4, line 7). Accordingly, the cover plate is considered a closure. Figures 1 and 3 show the fibers as looped/coiled and since the length of the container is a much greater dimension than a strand loop-coil, the deposit of the strand will be in multiple layers. The strand of Ingemansson is inherently capable of being removed for subsequent use since Ingemansson lacks any permanent fastening means; the remove-to-use feature is an "intended use" limitation.

Ingemansson does not expressly disclose the density of the glass strand within the container.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the glass strand in the claimed densities because applicant has not disclosed that the specific density provides an advantage, is used for a particular purpose, or solves a stated problem. Absent a

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showing of unexpected results, one of ordinary skill in the art, would have expected applicant's invention to perform equally well with a large range of densities because the specific density would only be dependent on the amount of glass strand forced into the container.

Therefore, it would have been an obvious matter of design choice to provide the glass strand of Ingemansson in the claimed density to obtain the invention as specified in claim 15. As noted by the applicant on page 8, lines 18-20 of their specification, "[t]he artisan will appreciate that there are many possible variations on the particular embodiment described...that would be consistent with the principles of the invention."

5. Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ingemansson in view of Mattis (US 3,398,877).

As noted above, Ingemansson discloses glass strands fed into a muffler outer cylinder **14**. The muffler outer cylinder is considered a container. As the strands are fed, they are blown with a nozzle **9**, causing the threads to blow apart so as to form a wool-like texture (Col. 3, lines 40-44). Accordingly, the filled strand is considered texturized. After the glass strands have been deposited into the outer cylinder, a cover plate is placed over the opening for transport (see Col. 3, line 67 to Col. 4, line 7). Accordingly, the cover plate is considered a closure. However, Ingemansson also suggests that the glass fibers may be directly blown into a package (Col. 4, lines 35-39) for any purpose whatsoever.

Mattis discloses a container for strand that has a closure (flaps of Figures 2 and 3) that is removable by cutting the sealing tape, and is used to provide a suitable package for the purpose of storing and transporting strand (see for example, the Abstract). Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the glass fibers of Ingemansson in a package as taught by Mattis for the storage and transport of the strands. As presented above, Ingemansson teaches looped/coiled and layered glass strand.

At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the glass strand in the claimed densities because applicant has not disclosed that the specific density provides an advantage, is used for a particular purpose, or solves a stated problem. Absent a showing of unexpected results, one of ordinary skill in the art, would have expected applicant's invention to perform equally well with a large range of densities because the specific density would only be dependent on the amount of glass strand forced into the container.

Therefore, it would have been an obvious matter of design choice to provide the glass strand of Ingemansson-Mattis in the claimed density to obtain the invention as specified in claim 15.

6. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ingemansson-Mattis as applied to claim 15 above, and further in view of Galanes (US 3,670,949).

Ingemansson-Mattis discloses the claimed invention except for the corrugated material. Galanes discloses that corrugated cardboard was a suitable material for cartons for improved wall strength (see Col. 4, lines 55-64). It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the container of Ingemansson-Mattis in a corrugated material in order to improve the wall strength of the container. It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

### ***Response to Arguments***

7. Applicant's arguments filed 12 September 2005 have been fully considered but they are not persuasive.

8. No claims are currently rejected under 35 U.S.C. 102(b).

9. The examiner is not convinced that fiberglass wool is not the same as glass strands. By definition, it is made of glass fibers, which are considered strands. As to the density, as noted above, the specification at page 8, line 15, appears to refer to the density as being the amount of glass strand compressed within a container, and not the physical properties of the glass fiber, itself. The differences between the physical properties of fiberglass wool and the applicant's glass fiber are beyond the scope of the presumed meaning of the claim limitations. Further, the specific density range is not

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disclosed as for any purpose, solving any stated problem, or providing any advantage, and appears to be an obvious matter of design choice, dependent upon how much glass strand is desired to be delivered in one package.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory Pickett whose telephone number is 571-272-4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Gregory Pickett  
Examiner  
3 January 2006

  
Mickey Yu  
Supervisory Patent Examiner  
Group 3700